

Remarks

This Amendment is in response to the Non-Final Office Action dated **May 8, 2007**.

The Office rejected claims 1 – 5, 7 – 8, 10 – 13, and 15 – 20, alleging the same as being unpatentable under 35 U.S.C. § 103(a) over U.S. Patent Application No. 2002/0143860 to Catan (hereinafter “Catan”), in view U.S. Patent No. 6,814,293 to Curry (hereinafter “Curry”), and further in view of “Applicant Admitted Prior Art” (hereinafter “AAPA”).

The Office rejected claims 6 and 9, alleging the same as being unpatentable under 35 U.S.C. 103(a) as being unpatentable over Catan in view of Curry and further in view of AAPA and further in view of U.S. Patent No. 6,778,917 (hereinafter “Jansen”).

In an alternate rejection, the Office rejected claims 1 – 5, 7 – 8, 10 – 13, and 15 – 20, alleging the same as being unpatentable under 35 U.S.C. § 103(a) over Catan in view of Curry and further in view of U.S. Patent No. 6,778,917 to Jansen (hereinafter “Jansen”).

In response to the rejections, applicant has amended independent claims 1 and 15 to further require that “the application-related specific data stored into the transponder is fully or partially variable.” Claims 12-13 and 19-20 have also been cancelled.

Response to both the §103 and the Alternate §103

The Examiner states that Curry discloses in column 17, line 30 to 34 that application-related specific data is stored to be fully or partially variable into the transponder (see page 8 of office action). This is not correct.

In the cited passage, Curry discloses that the user may adapt the data acquisition system to scan different types of articles, or the system may be adapted for different applications by interchanging modules on the data acquisition system through the use of a simple electric

connector. According to the preceding passages (lines 8 to 13 of column 11) the module (*i.e.* the scanner of the data acquisition system) may have specific scanning or decoding characteristics associated with it, *e.g.* operability at a certain working distance, or operability with a specific symbology or printing density. The articles are always provided with a specific symbology or printing density and the working distance is also specific for each article. Hence, the adaptation to which lines 30 to 34 refer concerns specific working distances from or specific symbology or printing density of different types of articles. Curry teaches to adapt the data acquisition system to scan different types of articles by manual setting of control switches associated with the module (lines 28 to 30) or by interchanging scanner modules having different specific scanning or decoding characteristics (lines 33 to 34). **The symbology (bar code or other optical characters according to column 16, line 66 to column 17, line 7) remains the same.** Curry does not disclose or suggest that application- related specific data is stored to be fully or partially variable into a transponder.

According to the section “response to arguments” on pages 19 to 20 of the official action:

“Examiner interprets the MRL device to correspond to the proportioning device, because the MRL device houses and performs the same functions as those outlined with the present application for the proportioning device (*i.e.* a transponder which stores data by a writing device and reads data by a reading device, contactlessly, see figure 1).”

This is also not correct because the Examiner equates the proportioning device with the transponder. The proportioning device, however, is a device selected from the group consisting of manually operated pipettes, motor-operated pipettes, manually operated dispensers, and motor operated dispensers which additionally provided with a transponder. So, the basic function of the proportioning device is dosing of liquids and an additional function is storing of

data and making data available to the user. Only by ignoring that the proportioning device is a pipette or dispenser - i.e. a device for dosing liquids -, can the Examiner come to the result that the MRL device disclosed by Catan corresponds to the proportioning device.

As to the feature “storing application-related data during use”, the Examiner states in the section “response to arguments” (on pages 21 to 22):

“.. Curry discloses at column 7, lines 24 to 34, wherein “In addition to the optical scan module, the user wears a first peripheral module on the wrist, and a second peripheral module on the other arm. As will be clear on figure 1A, the scan module emits a scanning laser beam, which the user directs towards a barcode symbol to be read. The barcode symbol may be printed on or otherwise attached to an article, details of which the user wishes to obtain, for example, for inventory or for sale purposes”.

Examiner interprets the reading in of the bar code symbol for inventory or sale purposes to correspond to application-related data, and the Examiner further- interprets (“corresponds” seems not to be correct) the reading to correspond to the storing of the data. As a result, the argued limitation above has been fully disclosed.”

This conclusion is also not correct. Firstly, the barcode is nothing but a readable identifier of the article (compare claim 1, feature a; column 5, line 27 and lines 37 to 40) which belongs to the species of production-related specific data according to the claimed invention. Please note, that product identifications like article number, serial number, production order number batch number and product modification data is production-related specific data in the sense of the invention (compare specification, page 3, lines 24 to 27).

Secondly, as according to the above passage from Curry the data is read for inventory or sale purposes, the inventory or sale of an article is derived from the product identification and eventually stored elsewhere. **This process does not lead to storage of application-related data on the article because the barcode providing the readable identifier of the article naturally remains unchanged.**

So Curry clearly does not disclose or suggest storing of application-related data in a transponder.

Finally, as neither Catan nor Curry disclose storing of application-related data during use of a proportioning device, the references also do not disclose fully or partially reading out application related data during use of a proportioning device.

Because the two primary reference fail to meet the claim limitations of the pending claims, both the §103 and alternate §103 rejections are considered overcome.

Conclusion

In light of the arguments presented above, Applicant asserts that the application is in condition for allowance. Favorable consideration and prompt action to that effect are earnestly requested.

Should the Examiner believe that anything further is required to place the application in better condition for allowance, the Examiner is invited to contact the Applicant's undersigned representative at the number listed below.

Respectfully submitted,

VIDAS, ARRETT & STEINKRAUS

Date: November 8, 2007

By: /Richard A. Arrett/
Richard A. Arrett
Registration No.: 33153

6640 Shady Oak Dr., Suite 400
Eden Prairie, MN 55344-7834
Telephone: (952) 563-3000
Facsimile: (952) 563-3001